Brotherhood of Trade-Show and Display Workers Union, Local 349, affiliated with the Southern Joint Board of International Leather Goods, Plastic and Novelty Workers Union, AFL–CIO *and* Shepard Convention Services, Inc. *and* Local 41, International Alliance of Theatrical Stage Employees of the United States and Canada. Case 10–CD–314

August 27, 1991

DECISION AND ORDER QUASHING NOTICE OF HEARING

BY CHAIRMAN STEPHENS AND MEMBERS CRACRAFT AND OVIATT

This is a proceeding under Section 10(k) of the National Labor Relations Act, following a charge filed by Shepard Convention Services, Inc. (Employer), alleging that Brotherhood of Trade-Show and Display Workers Union, Local 349, affiliated with the Southern Joint Board of International Leather Goods, Plastic and Novelty Workers Union, AFL–CIO (Local 349), has violated Section 8(b)(4)(D) of the Act by engaging in certain proscribed activity with an object of forcing or requiring the Employer to assign certain work to employees represented by Local 349 rather than to employees represented by Local 41, International Alliance of Theatrical Stage Employees of the United States and Canada (Local 41). The hearing was held May 8, 1991, before Hearing Officer Ellen K. Hampton.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board affirms the hearing officer's rulings, finding them free from prejudicial error. On the entire record, the Board makes the following findings.

I. JURISDICTION

The Employer, a Georgia corporation with its office and place of business located in Atlanta, Georgia, is engaged in providing trade show and exhibition services. The Employer during the past 12 months, a representative period, purchased and received at its Atlanta, Georgia facility goods and services valued in excess of $50,000 directly from suppliers located outside the State of Georgia. The parties stipulate, and we find, that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that Locals 349 and 41 are labor organizations within the meaning of Section 2(5) of the Act.

II. THE DISPUTE

A. *Background and Facts of Dispute*

The Employer, as part of its business of providing services and equipment to the trade show industry, rents displays to individual exhibitors.[1] These displays or ''versa'' exhibits, which are owned and housed by the Employer, are composed of component parts which must be assembled. The Employer's warehouse and freight-handling employees are represented by Local 349. It is undisputed that the Employer's service of setting up exhibitor-owned displays is performed by employees represented by Local 41.

Although the Employer's collective-bargaining agreement with Local 349 includes ''all work of every kind relating to company-owned rental equipment and displays,'' it is also signatory to the industry contractors' association's 1985 collective-bargaining agreement which recognizes Local 41 as ''the primary source for referrals [for, inter alia,] all exhibits, displays, rental units, European-style displays,[2] and signs (except aisle signs and association signs).''

On March 8, 1991, Local 349 sent a letter to the Employer, stating, inter alia, ''you can expect a strike and a picket at any shows when our rental display work is being assigned to anybody other than members of Local 349.''

B. *Work in Dispute*

The work in dispute involves installing, maintaining, and dismantling of exhibitor rental display booths and hanging signs.

C. *Contentions of the Parties*

The Employer and Local 349 contended at the hearing that the disputed work has by established practice been performed by direct hiring of employees represented by Local 349, and secondarily by referrals from Local 41's hiring hall. After the hearing closed, the Employer moved to reopen the record and for summary judgment awarding the work to employees represented by Local 349. The Employer relied on the ground that Local 41 had been dissolved by its International Union.

Local 41 filed a brief in opposition to the motion, arguing that it had been lawfully succeeded by a newly created local which has a legitimate claim to the disputed work.

On July 22, 1991, the Board issued a Notice to Show Cause why the factual allegations related to the dissolution of Local 41 should not be taken as true and why the notice of hearing should not be quashed because there are now no competing claims to the work. Local 41 filed a response agreeing that the notice should be quashed.

[1] The parties stipulate that the work at issue relates to displays rented to individual exhibitors but not to displays rented to the association putting on a trade show.

[2] ''European-style'' is another name for the ''versa'' rental units at issue here.

D. *Applicability of the Statute*

Section 10(k) of the Act directs the Board to hear and determine disputes which have given rise to charges under Section 8(b)(4)(D) of the Act. Under this section, however, the Board's authority is limited to the resolution of actual disputes between competing groups of employees. It is settled law that a jurisdictional dispute no longer exists when one group of employees effectively renounces its claim to the work. In this regard, we have held that the function of a 10(k) proceeding evaporates when one of the unions renounces the work.[3]

[3] *Painters Local 1396 (C. L. Wolff & Sons Painting Co.)*, 246 NLRB 442, 444 (1979), and cases cited therein.

As indicated, although the Employer moved for summary judgment awarding the work to employees represented by Local 349, both the Employer and counsel for Local 41 agree that Local 41 has been dissolved. Thus, there are now no competing claims to the work in dispute. The Employer did not respond to the Notice to Show Cause, and in its response Local 41 stated that the matter is moot and the notice of 10(k) hearing should be quashed. Accordingly, we shall quash the notice of hearing.

ORDER

The notice of hearing is quashed.